

**A BILL.**  
To Re-organize the Judicial System of Tennessee, and to Re-form the Code of Practice.  
SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That a Court of Common Law and Equity, consisting of a Chief Justice, and two Justices of the Peace, shall be established in each county of the State, which Court shall have and exercise jurisdiction of all cases at common law and equity, except in cases where the jurisdiction of the circuit, criminal and chancery courts of the State is retained.  
Sec. 2. *Be it enacted,* That the distinction between the different actions at law, and between actions at law and suits heretofore existing, are abolished; and there shall be in this State, hereafter, but one form of action for the enforcement or protection of private rights, and the redress or prevention of private wrongs; which shall be denominated a civil action, in which the party suing shall be denominated the plaintiff, and the adverse party shall be known as the defendant.  
Sec. 3. *Be it enacted,* That every person commencing a civil action, shall file in the office of the clerk of said court, in the proper county, as is now the practice, which shall contain the names of the parties, as well as the names of the defendants, and the counties in which they reside. Also, a statement of facts constituting the cause or causes of action, in concise and explicit language, together with a prayer for the relief asked for.  
Sec. 4. *Be it enacted,* That when such petition is filed and security given as now required by law, it shall be the duty of the clerk of said court to issue a subpoena for the persons named in said petition, together with a copy of said petition, directed to the sheriff of the proper county, requiring him to summon said defendant or defendants to appear and answer the petition on the return day of the summons; which shall be the first day of the next succeeding term of the court; provided, said subpoena is executed five days before the commencement of the court; and in case it is not so executed on all the defendants, then the first day of the next succeeding term shall be the return day, as to such defendants as the summons may not be legally served on; and, provided, further, that no more than one copy of said petition shall be issued to any one county in which a defendant or defendants may reside.  
Sec. 5. *Be it enacted,* That when any defendant or defendants are non-residents of Tennessee, and that fact appears in the petition, it shall be the duty of the clerk of the court to make publication as is now provided for by law, for four successive weeks prior to the sitting of the court; and upon application of a plaintiff the clerk shall be required to issue a subpoena and copy of petition for such non-resident defendant or defendants, to any county in this State, in which he or they may be temporarily found; and if such process is executed it shall be as binding as if they were resident defendants.  
Sec. 6. *Be it enacted,* That it shall be the duty of the defendant who has thus been summoned or notified, to appear within the first three days of the term, and file his demurrer or answer to said petition; provided, the court shall so long continue, if not, then before the adjournment, and adjourn, as may, however, for good cause shown, upon affidavit, the court may extend the time of filing the demurrer or answer.  
Sec. 7. *Be it enacted,* That the same causes of demurrer may be assigned, as are now assigned by law, except that the demurrer shall distinctly specify the grounds of objection to the petition. Upon the decision of the demurrer the plaintiff may amend, upon such terms as to costs as the court may adjudge; or the defendant may withdraw his demurrer and answer. The amendment and answer shall be filed within such time as the court may prescribe. In all cases when the demurrer is overruled, the defendant shall be permitted to file his answer.  
Sec. 8. *Be it enacted,* That the answer of the defendant shall be in lieu of pleas to the declaration; and if there exist causes of defense, that do not appear upon the face of the petition, and to which a plea in abatement would be the proper defense, the same may be set forth and relied on in the answer. The answer shall contain an admission or a specific denial of all allegations of the petition controverted by the defendant, and a statement of any new matter constituting a defense to the relief sought by the plaintiff. The statements of the defendant shall be confined strictly to a response to the allegations in the petition, and to new matter in defense; and if it goes beyond this, the illegal matter may be stricken out upon motion, or upon exceptions filed. The petition and answer shall be verified by affidavit of the parties, their agents or attorneys.  
Sec. 9. *Be it enacted,* That the petition, demurrer and answer shall constitute all the pleadings in a civil action; and all the relief granted and defenses made, hereafter, in the circuit or chancery courts of the State, shall be granted and enforced by writs, except a reply by the plaintiff, in cases of offset, as hereinbefore provided.  
Sec. 10. *Be it enacted,* That the court may at any time, in furtherance of justice, and upon such terms as may be proper, amend any pleadings or proceedings in any cause, and may, in every stage of the action before final judgment or decree, disregard any error or defect in the pleadings, which shall not materially affect the rights of the adverse party; upon appeals to the supreme court, no judgment or decree shall be reversed for mere informality; but the same may be corrected or made valid.  
Sec. 11. *Be it enacted,* That all matters of a like character may be included in the petition, and constitute one ground of action; and all defenses of a like character may be made to any petition; and when the plaintiff shall set forth in his petition different grounds of complaint, which are not of a like character, or improper defenses are made by the defendants, the court may, upon motion, demurrer or exception to the answer, strike them out; and when there are different causes of action of a like character, of a complicated nature, the court may, at its discretion, upon motion, separate them, and submit them to the jury as different actions. And in all cases when there are several causes of action, or facts to be tried by a jury, it shall be, at the discretion of the court, to compel the parties to submit them as separate issues.  
Sec. 12. *Be it enacted,* That all issues of fact shall be submitted to a jury, except the parties waive such right, then the case shall be submitted to the court, who shall try and determine all questions of law and fact arising in the cause; and in all cases involving mixed questions of law and fact, the questions of law shall be heard and determined by the court. In all cases involving an account, or where an order of reference is necessary, according to the practice of the chancery court, the court may make an order of reference to the clerk, or may, at its discretion, appoint a judicial commissioner, who may be referred and report, who shall be allowed the same fees as are allowed the clerk of the court for like services. The fees of the clerk of said court shall be the same as are now allowed clerks and masters in chancery for like services.  
Sec. 13. *Be it enacted,* That upon all references to the clerk or a commissioner, the proof shall be taken down according to the rules governing chancery practice in such cases, but in all other cases the proof shall be heard *in toto*; provided, however, that admissions may be taken in such cases as they are now allowed in trials in the circuit court.  
Sec. 14. *Be it enacted,* That all cases heretofore triable at the return term of the court, shall be heard and determined as heretofore, and the same proceedings shall be had as are now the practice when the parties fail to appear and prosecute or defend; and in no case shall a final judgment be rendered at the first term of the court, where the defendant appears and answers, unless he consent thereto.  
Sec. 15. *Be it enacted,* That when the defendant claims a set off, the case shall be set off in the answer, and the plaintiff, upon sufficient cause shown, may be allowed by the court to file a reply to the answer, to which exceptions may be filed, and which shall be

the end of the pleadings in the cause. Upon the determination of the cause, the court may render judgment in favor of the party whose claim is the largest, as is now allowed by law.  
Sec. 16. *Be it enacted,* That the law of evidence in the law governing the practice of the circuit, criminal and chancery courts of the State, shall be the same as in the law governing the practice of the circuit, criminal and chancery courts of the State, except so far as the same are altered or repealed by this act, shall remain in full force; and in all cases, govern the trial, judgment and practice of said court. The law of limitation, where it now depends on the form of the action, shall be applied by the courts to the subject matter, as though the proper form of action was used.  
Sec. 17. *Be it enacted,* That the costs in all cases shall be taxed to the unsuccessful party, unless for good cause shown, it be otherwise adjudged by the court.  
Sec. 18. *Be it enacted,* That judgment may be given, or decree rendered for or against one or more of the several plaintiffs, and for or against one or more of the several defendants, so as to determine the ultimate rights of the parties, and the costs of justice in all cases. The judgment or decree shall be entered on the records of the court, and shall specify the relief granted, or other determinations of the action. Verdicts on issues of fact shall, however, be held as advisory, until the organization of the Court of Common Law and Equity, as herein provided. And upon the election of the judges and organization of said court, all the causes pending in said courts, together with the records and papers in said courts, shall be transferred to the Court of Common Law and Equity, in the county where said courts are now held; and said causes shall be proceeded in without a change in the pleadings therein. An order of transfer shall be made by the several courts at the last term thereof.  
Sec. 19. *Be it enacted,* That upon the passage of this bill, the State shall be laid off into districts of convenient size, composed of one or more counties contiguous to each other, and an election shall be held by the proper officers of the several counties, on the first Thursday in May next, when a Judge and Attorney General shall be elected for each district. The judges so elected shall hold three terms of said Court of Common Law and Equity in each county in their respective districts in each year, and the Attorney General shall discharge all the duties now imposed by law upon the Attorney General of the State. The persons elected to fill the office of judge and Attorney General shall reside in their respective districts, and shall be allowed the same compensation as is now allowed by law to judges of the circuit court, and to the Attorney General, and be subject to all the responsibilities.  
Sec. 20. *Be it enacted,* That the present judges and attorneys general shall continue to hold office until the expiration of their terms, and the duties of the judges and attorneys general under the provisions of this act; and at the last terms of the circuit and criminal courts in the respective counties, next before the times of holding the courts of Common Law and Equity, the judges and attorneys general, by law, it shall be the duty of the judges of said courts to take all recognizances for the appearance of parties and witnesses, in all cases where they are now required by law to be taken, for the appearance of said persons, and the recognizances shall be as binding, and the same proceedings had thereon, as if made returnable before the circuit or criminal courts aforesaid.  
Sec. 21. *Be it enacted,* That at the regular election in March next, a clerk shall be elected by the qualified voters in each county, for the Court of Common Law and Equity, who shall hold his office for the same time as the clerks of the circuit courts are elected; and such clerks shall act as clerks of the circuit court, and the arguments and proceedings of Common Law and Equity, under the provisions of this act. And at the first term of said court in each county, it shall be the duty of the judge thereof to cause the clerk to enter into bond and security, as is now required by law, for the faithful discharge of his duties, and the clerk of said court shall be subject to the same duties and responsibilities, and liable to the same proceedings as is now the law in regard to clerks and masters of the circuit court and chancery. Should the term of service of the clerk of the circuit court expire at the next March election, then the clerk of the Court of Common Law and Equity, elected in said county, shall not assume the duties of clerk of the circuit court; but the circuit court clerk shall continue to act as clerk of the circuit court, until the organization of said court under this act.  
Sec. 22. *Be it enacted,* That this act take effect from and after its passage.  
**SUPPRESSION OF SMALL NOTES.**—We see that the bill to suppress the circulation of small notes, have both passed the Senate on the third reading. We hail the passage of these bills as important steps in the progress of financial reform. We trust there is no doubt of the wisdom of the House. The bill to suppress small notes leaves the State Bank the right to issue such notes. We doubt the wisdom of the exception. There is no need of small notes. But the suppression of all other small notes is a long step in the right direction. *Nashville Union & American.*  
**THE MISSOURI HOUSE OF DELEGATES** have enacted a bill which prohibits the president, professors or tutors of the University of that State from preaching or exercising the functions of a minister of the Gospel, or any of the learned professions, passed by a large majority.  
**CINCINNATI, Nov. 28.**—Iron.—The market is unchanged, and the demand continues moderate. We continue to quote Ohio hot blast pig at \$8.40 a ton; cold blast do, at \$8.00 a ton; and Tennessee and inferior Ohio brands at \$2.00 a ton. Bars are unchanged; common sells at 22 a ton, and charcoal at 40.  
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